

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROGER D. ANDERSON,

Defendant.

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CASE NO. 2:19 CR000067-001

CHIEF JUDGE ALGENON L. MARBLEY

OPINION & ORDER

This matter is before the Court on Defendant Anderson's Motion for Reconsideration. (ECF No. 93). Defendant previously filed a motion to continue his May 3, 2021 report date, which the Government opposed and this Court denied. (See ECF Nos. 80, 91, 92). Mr. Anderson seeks this Court's reconsideration, arguing first that should have considered his request under 18 U.S.C. § 3143, and second that Mr. Anderson has been recently diagnosed with prostate cancer.

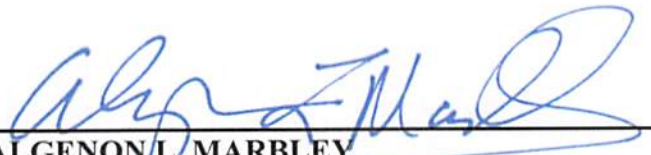
As to the first argument, this Court notes that analyzing Defendant's request under 18 U.S.C § 3143(a), which deals with release pending execution of a sentence, leads to the same result reached in the previous opinion. This provision still creates a presumption of detention for the Defendant since he has been found guilty of an offense in a case described in subparagraph (C) of subsection (f)(1) of section 3142. Because this Court does not see a substantial likelihood that a motion for acquittal or new trial will be granted and because the Government did not recommend that no sentence of imprisonment be imposed, Defendant has not overcome Section 3143(a)'s presumption of detention.

As to Mr. Anderson's recent diagnosis with prostate cancer, this Court notes the lack of any documentation signed by a medical professional that plainly states that Mr. Anderson has been

diagnosed with prostate cancer. A prescription for Flomax,¹ coupled with a biopsy consent form signed by Mr. Anderson and a biopsy appointment confirmation, is not a diagnosis. No records from a medical professional indicate that Mr. Anderson has been diagnosed with prostate cancer. Furthermore, Mr. Anderson can receive diagnostic and medical treatment for prostate cancer while in the custody of BOP. This Court also notes that this is the third time that Mr. Anderson has sought a continuance of his report date to the BOP at the eleventh hour. On March 3, 2021 Defendant sought a continuance of his March 5 reporting date. (ECF No. 74). On March 4, 2021, this Court granted the Defendant a continuance of his reporting date to allow him time to receive a COVID-19 vaccination and set a new reporting date of May 3, 2021. (ECF No. 76). On April 9, 2021, the Defendant moved again to delay his May 3, 2021 report date to August 15, 2021. (ECF No. 80). This Court denied that request on April 26, 2021. (ECF No. 92). Now, on the eve of his committal, Mr. Anderson again seeks a continuance and offers paltry documentation in support. This pattern suggests a desire to dodge his sentence.

Mr. Anderson has been sentenced to 96 months of imprisonment by this Court. He has not defeated the presumption against detention that accompanies his sentence under the law. For these reasons, the Defendant's Motion is **DENIED**. Mr. Anderson is **DIRECTED** to report to FPC Canaan on May 3, 2021 to begin his sentence.

IT IS SO ORDERED.


ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

Dated: April 30, 2021

¹ Tamsulosin, sometimes sold under the brand name Flomax, may also be prescribed for an enlarged prostate or benign prostatic hyperplasia, which, by its very name, is benign. *See Tamsulosin, U.S. Nat'l Library of Med., MedlinePlus, <https://medlineplus.gov/druginfo/meds/a698012.html#why> (last visited Apr. 30, 2021 at 3:30 p.m.).*